

**(Noxious) Weeds Ordinance Chapter 757 and
Property Maintenance Code Chapter 556 Amendments, First Reading**

June 21, 2016

The Honorable Mayor Ellison and
Members of the City Commission:

At the last regular meeting, the city commission discussed potential amendments to the city's property maintenance and (noxious) weeds ordinances to encourage and set rules for the use of alternative landscaping options that support the use of native plants using the Ferndale Noxious Weeds Ordinance as a framework (City Commission Meeting of June 13, 2016; [Recommendation Regarding Noxious Weeds Ordinance Amendments](#)). Also see, [Code of the City of Ferndale, Article III, Noxious Vegetation](#). The city commission directed the city attorney to revise the ordinance framed on the Ferndale model that defines and encourages natural landscaping and use of native plants.

A review of the city code reveals that two ordinances, the [Weeds Ordinance, at Chapter 757](#) of the Code sometimes referred to as the "Noxious Weeds Ordinance," and the International Property Maintenance Code (IPMC), adopted and promulgated at [Chapter 556](#) of the city code regulates "weeds." The Weeds Ordinance, adopted by the city in 1962, is based on the state Noxious Weeds Act, (PA 359 of 1941) and was designed mainly to control eleven species or genera of nuisance or poisonous plants. The ordinance also allows the city to control other vegetation considered a "common nuisance" by the city commission, although a search has not revealed any other plants that have been included in this definition.

The Weeds Ordinance defines "noxious weeds" in the following section:

As used in this chapter, the following terms shall have the meanings indicated:

NOXIOUS WEEDS

Includes Canada thistle (*cirsium arvense*), doddars (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*ambrosia elatior* L.) and poison ivy (*rhus toxicodendron*), poison sumac (*toxicodendron vernix*) or other plant which, in the opinion of the City Commission, is regarded as a common nuisance. [Section 757-2 Definitions](#)

The International Property Maintenance Code at Chapter 3, Section 302.4 [Weeds] on the other hand, regulates weeds in a more general manner:

All premises and exterior property shall be maintained free from weeds or plant growth in excess of (jurisdiction to insert height in inches).¹ All noxious weeds shall be prohibited. Weeds shall be

¹

§ 556-2. Revision of standards.

The following sections are revised as follows:

C. In Section 302.4, insert: "eight inches."

defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.²

The city attorney's office proposes to amend that portion of International Property Maintenance Code regulating weeds at Chapter 3, Section 302.4 and add an amendment to Chapter 556-4 and 556-2 of the city code which would add new standards to apply and repeal one duplicate provision. It is not necessary to amend the (Noxious) Weeds Ordinance at Chapter 757, because it solely regulates plants considered unwanted by the state of Michigan and any changes would still be superseded by the state statute.

The amendments, if adopted, will bring in language from the Ferndale ordinance defining and specifically allowing planned natural landscaping and defining the term to only include species of plants native to southern lower Michigan as codified by the Michigan State University Native Plants and Ecosystem Services. The amendments will still prohibit vegetation taller than eight inches, but excluding trees, shrubs, cultivated flowers, gardens and planned natural landscaping. No changes have been made to enforcement provisions but unlike Ferndale, planned natural landscaping does not require registration with the city.

Should the city commission desire to adopt the proposed ordinance, the following resolution is presented for your consideration:

Be it resolved, the city commission hereby adopts the ordinance repealing and amending portions of the Property Maintenance Ordinance at Chapter 556, in order to encourage and set rules for the use of alternative landscaping options that support the use of native plants. On first reading:

ORDINANCE 2016 - ____

THE CITY OF ROYAL OAK ORDAINS:

Section 1. **STATEMENT OF PURPOSE.** An ordinance repealing and amending portions of the Property Maintenance Ordinance at Chapter 556, in order to encourage and set rules for the use of alternative landscaping options that support the use of native plants.

Section 2. **AMENDMENT.** Chapter 556 of the Code of the City of Royal Oak, Property Maintenance, Section 556-4, Additional amendments to standards, is amended to add:

R. Section 302.4 of the International Property Code is repealed in its entirety and amended to read as follows:

302.4 All premises and exterior property shall be maintained free from plant growth in excess of eight inches; excluding trees, shrubs, cultivated flowers, gardens and planned natural landscaping.

302.4.1 Upon failure of the owner or agent having charge of a property to maintain it in compliance with Section 302.4 and after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, and duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and bring the property in compliance with Section 302.4, and the costs shall be paid by the owner or agent for the property.

302.4.2 "Native plants" are those plants identified as native plant species in southern lower Michigan by Michigan State University Native Plants and Ecosystem Services, a copy of which shall be maintained at the city.

302.4.3 "Planned natural landscaping" is a planned, intentional and maintained landscaping or cultivation, of native plants, ornamental grasses and groundcovers, rain gardens, shrubs and trees. Non-native plants and invasive species of plants are prohibited. Planned natural landscaping is not intended to allow a property owner to ignore lawn care duties.

302.4.4 Planned natural landscaping shall be cut back, at least annually, to remove dead or unmaintained growth. A person who is an owner of real property shall cut or remove any dead or unmanaged growth on his or her property, including a planned natural landscaping.

302.4.5 Planned natural landscaping shall be designed not to attract rats.

Section 3. REPEAL. Chapter 556 of the Code of the City of Royal Oak, Property Maintenance, Section 556-2, Adoption of Standards, subsection C, stating, "In Section 302.4, insert: 'eight inches'" is repealed.

Section 4. SEVERABILITY. If any Section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 5. SAVINGS. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 6. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 7. EFFECTIVE DATE. This ordinance shall take effect ten (10) days after the final passage thereof.

Respectfully Submitted,

A handwritten signature in black ink, reading "Mark O. Liss". The signature is written in a cursive, flowing style.

Mark O. Liss
Interim City Attorney